

VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Karl Veit  
Appeal No. 05-12

Decided: April 21, 2006

DECISION OF THE REVIEW BOARD

I. PROCEDURAL BACKGROUND

The State Building Code Technical Review Board ("Review Board") is a Governor-appointed board established to rule on disputes arising from application of the Virginia Uniform Statewide Building Code ("USBC") and other regulations of the Department of Housing and Community Development. See §§ 36-108 and 36-114 of the Code of Virginia. Enforcement of the USBC in other than state-owned buildings is by local city, county or town building departments. See § 36-105 of the Code of Virginia. An appeal under the USBC is first heard by a local board of building code appeals and then may be further appealed to the Review Board. See § 36-105 of the Code of Virginia. The Review Board's proceedings are governed by the Virginia Administrative Process Act. See § 36-114 of the Code of Virginia.

## II. CASE HISTORY AND FINDINGS OF THE REVIEW BOARD

Karl Veit ("Veit"), a resident of Arlington County, appeals a determination of the County USBC department that the International Building Code (the "IBC") rather than the International Residential Code (the "IRC") is applicable to the construction of his proposed new home since the upper area in the home is considered to be a story rather than an attic.

In July of 1995, the County USBC department reviewed the plans submitted by Veit for a new home at 3703 South 7th Street. Since the plans showed the attic area accessible by a full width stairway, windows large enough for emergency escape from bedrooms, a deck connected to that level, the walls and ceiling insulated, ducts provided for heat and air-conditioning and electrical, intercom and computer outlets, the USBC department determined that the area was not an attic, but rather an additional story of the home. As such, the home was subject to the IBC rather than the IRC, both of which are nationally recognized model codes incorporated by reference as part of the USBC. The IBC is only applicable to homes which are four stories or more in height. The IRC is used for homes of three or less stories. The IBC contains construction requirements which are more restrictive than the IRC, including the requirement for the installation of a sprinkler system.

Veit resubmitted the plans showing the removal of the insulation, ducts and electrical outlets; however, the County still determined the attic area constituted a story instead of an attic.

Veit appealed to the Arlington County USBC appeals board, which heard his appeal and ruled to uphold the County USBC official's determination.

Veit then further appealed to the Review Board.

At the hearing before the Review Board, Veit testified that he had resubmitted the site plan for the home showing a change in the elevation of the finished grade around the house. This change enabled the lower story of the home to be considered a basement rather than a story above grade. The County approved the new site plan which therefore changed the number of stories in the home from four to three even when considering the attic to be a story. Since the home is now only three stories, the IRC is applicable and the home is no longer subject to the additional requirements resulting from the IBC being applicable.

As the purpose of Veit's appeal was to permit the construction of the home under the IRC rather than the IBC and the County has now approved the plans under the IRC, the

application of the USBC which was the basis for Veit's appeal is no longer in effect and the appeal is rendered moot.<sup>1</sup>

#### IV. FINAL ORDER

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders the appeal to be, and hereby is, dismissed as moot.

/s/\*

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Chairman, State Technical Review Board

5/19/2006

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Date Entered

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have thirty (30) days from the date of service (the date you actually received this decision or the date it was mailed to you, whichever occurred first) within which to appeal this decision by filing a Notice of Appeal with Vernon W. Hodge, Secretary of the Review Board. In the event that this decision is served on you by mail, three (3) days are added to that period.

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<sup>1</sup> The Review Board members noted that Beech may still ask the building official for a ruling on whether the parging complies with the USBC.

**\*Note: The original signed final order is available from Review Board staff.**